

Remarks

The Office Action dated May 2, 2006 has been carefully reviewed and the following comments are made in response thereto. By way of this amendment, claims 25 to 75 are pending. Claims 1-24 were cancelled without prejudice or disclaimer to the subject matter claimed therein. Claims 25-75 are new. Applicants submit that new claims 25-75 are drawn to the invention of Group II. Further, Applicants submit that the new claims and amendments to the claims do not introduce any prohibited new matter. Representative support for the new claims is located in the table that follows.

Claim	Support in Specification
25	page 18, lines 33-34
26-30	original claim 18; page 14, line 18 to 24
31	page 19, lines 9-14
32-37	original claim 15; page 16, lines 18 to page 18, line 12
38	page 22, line 25 to page 23 line 2
39-40	original claim 15
41-48	page 21, line 21 to page 22, line 4, page 22, line 25 to page 23 line 2.
49	original claim 1
50-52	original claim 2; page 29, line 25 to page 30, line 25.
53-55	page 28, line 21-33; page 21, line 21 to page 22, line 4
56-58	page 28, line 21-33
59	original claim 9
60-71	original claims 22-24; page 31, line 9 to page 32, line 7.
72-75	page 29, line 25 to page 30, line 25.

Interview

Applicants would like to thank Examiner Hutson for the phone conference held with Applicants' representative. During the phone interview, the Examiner agreed that Applicants were not bound by their election of Group I in the first Response to the Restriction Requirement. As such, Applicants would be permitted to elect Group II in response to the Second Restriction Requirement.

Restriction Requirement

In response to the First and Second Restriction Requirements, Applicants elect, with traverse, Group II (claims 14, 15 and 18-20) drawn to an isolated PARP-e nucleic acid. Further, Applicants elect SEQ ID NO: 1 with traverse. Claims 14, 15 and 18-20 have been cancelled and replaced with new

claims 25-49. Applicants submit that new claims 25-49 are directed to the same invention as claims 14, 15 and 18-20.

With regard to the traversal of the restriction requirement, Applicants respectfully assert that the Office Action has not met the burden of establishing that Groups II and I are patentably distinct. In Particular, Applicants note that the Office Action has not established a *prima facie* showing as to the burden of search. The Examiner has failed to provide reasons and/or examples to support his conclusions as required under MPEP 803.01. Applicants note that the Office Action sets forth general statements regarding Groups I and II as being unrelated (see office action, page 3). Notably, the method as claimed in Group I cannot be practiced without the nucleic acid molecule of Group II. Accordingly, Applicants respectfully request that the claims in Group I be examined together with the claims of Group II because they constitute a single invention under the guidelines for determining patentably distinct inventions as set forth in MPEP 803.01.

Further, Applicants respectfully point out that once a product claim is found allowable, withdrawn method claims which depend from or otherwise include all the limitations of the allowable product claim must be rejoined. Thus, once a claim directed to nucleic acid is found allowable, withdrawn method claims which depend from or otherwise include all the limitations of the claim directed to the nucleic acid must be rejoined.

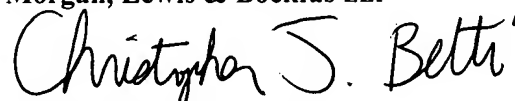
With regards to the traversal of the election of SEQ ID NO: 1, Applicants point out that SEQ ID NO: 1 is the cDNA of SEQ ID NO: 10. As such, these molecules constitute the same invention and should not be subject to restriction. Accordingly, Applicants respectfully request that SEQ ID NO: 1 and 10 be examined together.

Conclusion

Except for issues payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

Dated: November 2, 2006
Morgan, Lewis & Bockius LLP
Customer No. 09629
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202-739-3000

Respectfully submitted,
Morgan, Lewis & Bockius LLP



Christopher J. Betti, Ph.D.
Registration No. 56,890